

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

JUSTIN L. CRUTHIRD,

Plaintiff,

v.

**MARIUS TOMA,
et al.**

Defendants.

)
)
)
)
)
)
)
)
)
)

Case No.

**NOTICE OF REMOVAL
CIVIL ACTION**

Exhibit A

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

JUSTIN L. CRUTHIRD,

Plaintiff,

v.

MK EXPRESS LINES, INC.,

Serve Registered Agent:

Anamaria Cristina Costin

5315 N. Clark Street, #198

Chicago, IL 60640

And

PAR LOGISTICS, LLC,

Serve Registered Agent:

Keith Estelle

7377 Expressway Drive SW, Suite D

Grand Rapids, MI 49548

And

MARIUS TOMA,

313 Haller Avenue

Romeoville, IL 60446-1721

Defendants.

Case No.

Division

JURY TRIAL DEMANDED

PETITION

Justin L. Cruthird, for his causes of action against MK Express Lines, Inc., PAR Logistics, LLC, and Marius Toma, states as follows:

PARTIES

1. Justin Cruthird is an individual over the age of 18 residing in Kansas City, Missouri.
2. Defendant MK Express Lines, Inc. is an Illinois for-profit corporation with its principal place of business in Chicago, Illinois, and may be served through its registered agent, Anamaria Cristina Costin, 5315 N. Clark Street, #198, Chicago, IL 60640.

3. At all times in this case, MK Express Lines acted by and through its agents and employees, including defendant Marius Toma, who acted within the course and scope of their employment.
4. Defendant PAR Logistics, LLC is a Michigan limited liability company with its principal place of business in Grand Rapids, Michigan and may be served through its registered agent Keith Estelle, 7377 Expressway Drive SW, Suite D, Grand Rapids, MI 49548.
5. At all times in this case, PAR Logistics, LLC acted by and through its agents and employees, including defendant Marius Toma, who acted within the course and scope of their employment.
6. Defendant Marius Toma is an individual over the age of 18 residing in Illinois and may be served at 313 Haller Avenue, Romeoville, IL 60446-1721.
7. This Court has jurisdiction over this matter pursuant to Mo. Rev. Stat. Sec. 506.210 (1955) in that defendants, either individually or through their agents, operated a motor vehicle on Interstate 70 in Jackson County, Missouri.

COMMON ALLEGATIONS

8. This case stems from a collision on Interstate 70 near Jackson Street in Kansas City, Jackson County, Missouri, on October 17, 2018.
9. At the time of the collision, defendant Toma was driving a 2010 Kenworth truck tractor and trailer owned by defendant MK Express Lines and as MK Express Lines' and/or defendant PAR Logistics' employee or agent.
10. Also at the time of the collision, Justin Cruthird was a passenger in a car stopped in traffic in the westbound lanes of Interstate 70 near Jackson Street in Kansas City, Missouri.

COUNT ONE
(Negligence)

Plaintiff, for count one of his cause of action against Defendants, state:

11. On October 17, 2018, while driving the 2010 Kenworth truck tractor and trailer westbound on Interstate 70 near Jackson Street, defendant Toma collided with the back of a car in which Justin Cruthird was a passenger.
12. Defendant Marius Toma, and defendants MK Express Lines and PAR Logistics, through the actions of their employee Mr. Toma, were negligent in the operation of the Kenworth truck tractor and trailer in the following ways:
 - a. Failed to keep a careful lookout;
 - b. Knew or could have known that there was a reasonable likelihood of collision in time thereafter to have stopped, swerved, slackened speed, or sounded a warning but failed to do so;
 - c. Drove at a speed which made it impossible for him to stop within the range of his visibility;
 - d. Drove at an excessive speed;
 - e. Rear-ended the stopped passenger vehicle; and
 - f. Followed the passenger vehicle too closely.
13. As a result of Defendants' negligence, Justin Cruthird injured his back, neck, and head.
14. As a further result of Defendants' negligence, Mr. Cruthird underwent reasonable and necessary medical care and incurred medical costs in an amount yet to be determined and will require more medical care and incur additional medical costs in the future.
15. As a further result of defendants' negligence, Mr. Cruthird lost income from his job in an amount yet to be determined and will continue to lose income in the future.

WHEREFORE, Plaintiff prays for judgment against Defendants in such sum as is fair and reasonable but more than Twenty-Five Thousand Dollars (\$25,000.00) each, together with prejudgment interest, and his costs.

COUNT TWO
(Negligence)

Plaintiff, for count two of his cause of action against defendants MK Express Lines and PAR Logistics, states:

16. On October 17, 2018, while driving the 2010 Kenworth truck tractor and trailer westbound on Interstate 70 near Jackson Street, defendant Toma collided with the back of a car in which Justin Cruthird was a passenger.
17. Defendants MK Express Lines and PAR Logistics were negligent in the following ways:
 - g. They failed to properly train their drivers, including defendant Toma, in the safe operation of their vehicles;
 - h. They failed to prevent distracted driving with their drivers, including using mobile phones and other devices while driving their vehicles; and
 - i. They failed to properly monitor their employee's driving habits, including defendant Toma's.
2. As a result of defendant MK Express Lines' and PAR Logistics' negligence, Justin Cruthird injured his back, neck, and head.
3. As a further result of Defendants' negligence, Mr. Cruthird underwent reasonable and necessary medical care and incurred medical costs in an amount yet to be determined and will require more medical care and incur additional medical costs in the future.
4. As a further result of defendants' negligence, Mr. Cruthird lost income from his job in an amount yet to be determined and will continue to lose income in the future.

WHEREFORE, Plaintiff prays for judgment against defendants MK Express Lines and PAR Logistics in such sum as is fair and reasonable but more than Twenty-Five Thousand Dollars (\$25,000.00) each, together with prejudgment interest, and his costs.

COUNT THREE
(Negligence Hiring and Retention)

Plaintiff, for count three of his cause of action against defendants MK Express Lines and PAR Logistics, state:

18. Sometime before October 17, 2018, defendants MK Express Lines and PAR Logistics hired Marius Toma as a driver.
19. At the time of Mr. Toma's hiring, defendants MK Express Lines and PAR Logistics were negligent in that they knew or should have known that he had dangerous and unsafe driving proclivities including the following:
 - a. Car crash while driving a commercial motor vehicle on September 17, 2013 in Chicago, Illinois;
 - b. Conviction for disregarding a traffic control device while driving a commercial motor vehicle on June 18, 2015 in Illinois;
 - c. Conviction for speeding 11-14 miles per hour above the limit on March 6, 2001 in Illinois;
 - d. Conviction for speeding 15-20 miles per hour over the limit on June 22, 1995 in Illinois;
 - e. Conviction for speeding 11-14 miles per hour over the limit on July 19, 1995 in Illinois;
 - f. Conviction for disobeying a pedestrian control sign on December 29, 1998 in Illinois.

20. As a direct and proximate result of defendant MK Express Lines' and PAR Logistics' negligent hiring of Marius Toma, on October 17, 2018, while driving a Kenworth truck tractor and trailer for defendants MK Express Lines and PAR Logistics, Mr. Toma collided with the back of a car in which plaintiff Justin Cruthird was passenger on westbound Interstate 70 near Jackson Street in Kansas City, Missouri.
21. As a result of defendant MK Express Lines' and PAR Logistics' negligence, Justin Cruthird injured his back, neck, and head.
22. As a further result of defendants' negligence, Mr. Cruthird underwent reasonable and necessary medical care and incurred medical costs in an amount yet to be determined and will require more medical care and incur additional medical costs in the future.
23. As a further result of defendants' negligence, Mr. Cruthird lost income from his job in an amount yet to be determined and will continue to lose income in the future.

WHEREFORE, Plaintiff prays for judgment against defendants MK Express Lines and PAR Logistics in such sum as is fair and reasonable but more than Twenty-Five Thousand Dollars (\$25,000.00) each, together with prejudgment interest, and his costs.

COUNT FOUR

(Negligence Per Se – Missouri Statutes)

Plaintiff, for count four of his cause of action against Defendants, states:

24. Traffic on the road where the crash occurred in this case is subject to the statutes of the State of Missouri.
25. Section 304.012 of the Revised Statutes of Missouri states in relevant part, "Every person operating a motor vehicle on the roads and highways of this state shall drive the vehicle in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person and shall exercise the highest degree of care."

26. Section 302.780 of the Revised Statutes of Missouri states in relevant part, “It shall be unlawful for a person to ... [d]rive a commercial motor vehicle in a willful or wanton disregard for the safety of persons or property....”
27. Section 304.017 of the Revised Statutes of Missouri states in relevant part, “The driver of a vehicle shall not follow another vehicle more closely than is reasonably safe and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the roadway.”
28. On October 17, 2019, through his employment with MK Express Lines and PAR Logistics, and while driving a Kenworth truck tractor and trailer for them, defendant Toma crashed into the rear of the car occupied by Justin Cruthird, causing him injury.
29. Defendants were negligent in the following ways:
 - a. They violated Mo. Rev. Stat. sec. 304.012 in that Marius Toma drove the truck tractor carelessly and imprudently, drove at a dangerous speed, and did not exercise the highest degree of care; and
 - b. They violated Mo. Rev. Stat. sec. 302.780 in that Marius Toma drove the Kenworth truck tractor, a commercial vehicle, with a willful or wanton disregard for Justin Cruthird’s safety; and
 - c. They violated Mo. Rev. Stat. sec. 304.017 in that Marius Toma followed the car with Mr. Cruthird in it more closely than was reasonably safe for the stop-and-go-traffic on Interstate 70.
30. As a passenger in a car on Interstate 70, Justin Cruthird was a member of the class that Mo. Rev. Stat. sections 304.012, 302.780, and 304.017 are designed to protect.
31. As a direct and proximate result of Defendants’ violations of Mo. Rev. Stat. sections

304.012, 302.780, and 304.017 and their resulting negligence, Justin Cruthird injured his back, neck, and head.

32. As a further result of defendants' negligence, Mr. Cruthird underwent reasonable and necessary medical care and incurred medical costs in an amount yet to be determined and will require more medical care and incur additional medical costs in the future.

33. As a further result of defendants' negligence, Mr. Cruthird lost income from his job in an amount yet to be determined and will continue to lose income in the future.

34. The injuries sustained by Mr. Cruthird, as described above, are of the type that Mo. Rev. Stat. Sections 304.012, 302.780, and 304.017 are designed to prevent.

WHEREFORE, Plaintiff prays for judgment against Defendants in such sum as is fair and reasonable but more than Twenty-Five Thousand Dollars (\$25,000.00) each, together with prejudgment interest, and his costs.

MEYERKORD, RUSSELL & HERGOTT

by: /s/ Matthew D. Meyerkord
 Matthew D. Meyerkord #56662
 Nick T. Hergott #62940
 105 East 5th Street, Suite 301
 Kansas City, MO 64106
 (816) 221-7555
 (816) 527-8083 (fax)
matt@mrhlawkc.com
ATTORNEYS FOR PLAINTIFF